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SENATE BILL 241

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Manny M. Aragon

AN ACT

RELATING TO ZONING; REMOVING THE EXTRATERRITORIAL ZONING AREA FOR MUNICIPALITIES IN A CLASS A COUNTY WITH MORE THAN THREE HUNDRED THOUSAND PERSONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 3-21-2 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-20-2, as amended) is amended to read:

"3-21-2. JURISDICTION OF A COUNTY OR MUNICIPAL ZONING AUTHORITY. -- To carry out the purposes of Sections 3-21-1 through 3-21-14 NMSA 1978:

A. a county zoning authority may adopt a zoning ordinance applicable to all or any portion of the territory within the county that is not within the zoning jurisdiction of a municipality;

B. a municipal zoning authority may adopt a zoning

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1 ordinance applicable to the territory within the municipal
2 boundaries and, if not within a class A county with a
3 population of more than three hundred thousand persons
4 according to the last federal decennial census, shall have
5 concurrent authority with the county to zone all or any portion
6 of the territory within its extraterritorial zoning
7 jurisdiction [~~which~~] that is within:

8 [~~(1)~~] ~~three miles of the boundary of any~~
9 ~~municipality having a population of two hundred thousand or~~
10 ~~more persons, provided such territory is not within the~~
11 ~~boundary of another municipality;~~

12 ~~(2)]~~ (1) two miles of the boundary of any
13 municipality having a population of twenty thousand or more
14 [~~but less than two hundred thousand~~] persons, provided such
15 territory is not within the boundary of another municipality;

16 [~~(3)]~~ (2) one mile of the boundary of any
17 municipality having a population of one thousand five hundred
18 or more but less than twenty thousand persons, provided such
19 territory is not within the boundaries of another municipality;

20 [~~(4)]~~ (3) the limits of the boundaries of a
21 municipality having a population of one thousand five hundred
22 persons or less; or

23 [~~(5) if~~] (4) territory not lying within the
24 boundary of a municipality [~~is~~] but within the extraterritorial
25 jurisdiction of more than one municipality; provided that the

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1 extraterritorial zoning jurisdiction of each municipality shall
2 terminate equidistant from the boundary of each municipality
3 unless one municipality has a population according to the most
4 recent federal decennial census of less than two thousand five
5 hundred and another municipality has a population according to
6 the most recent federal decennial census of more than two
7 thousand five hundred, ~~[Then]~~ in which case the
8 extraterritorial zoning jurisdiction of the municipality having
9 the greatest population extends to such territory; and

10 ~~[(6)—such areas]~~ (5) territory in addition to
11 the extraterritorial zoning jurisdiction provided by Paragraphs
12 (1), (2), (3) and (4) ~~[and (5)]~~ of this subsection that the
13 governing bodies of a county and a municipality agree to place
14 within the extraterritorial zoning jurisdiction of the
15 municipality by agreement entered into pursuant to the
16 provisions of the Joint Powers Agreements Act, provided such
17 additional territory is not within the boundary of another
18 municipality and is contiguous to the exterior boundaries of
19 the territory within the extraterritorial zoning jurisdiction
20 of the municipality;

21 C. concurrent authority shall be exercised pursuant
22 to an extraterritorial zoning authority or joint powers
23 agreement; provided, however, this authority may be exercised
24 regardless of whether a county has enacted a comprehensive
25 zoning ordinance; and

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1 D. in the absence of a county zoning ordinance, a
2 qualified elector may file a petition, signed by the qualified
3 electors of the county equal in number to not less than twenty-
4 five percent of the votes cast for the office of governor at
5 the last preceding general election, seeking the adoption of a
6 zoning ordinance by the county zoning authority. Within one
7 year of the filing of the petition seeking the adoption of a
8 county zoning ordinance, the board of county commissioners
9 shall adopt a county zoning ordinance. "

10 Section 2. Section 3-21-3.2 NMSA 1978 (being Laws 1998,
11 Chapter 42, Section 5, as amended) is amended to read:

12 "3-21-3.2. EXTRATERRITORIAL ZONING IN CLASS A
13 COUNTIES-- PROCEDURES. --

14 A. In a class A county in which a municipality is
15 located that has a population of:

16 (1) more than three hundred thousand persons
17 ~~[concurrent extraterritorial zoning jurisdiction between that~~
18 ~~municipality and the county shall be determined by an~~
19 ~~"extraterritorial land use authority". The extraterritorial~~
20 ~~land use authority shall have the jurisdiction and powers of an~~
21 ~~extraterritorial zoning authority and shall carry out its~~
22 ~~duties related to planning and platting jurisdiction,~~
23 ~~extraterritorial zoning, subdivision approval and annexation~~
24 ~~approval or disapproval as provided in the Municipal Code. The~~
25 ~~extraterritorial land use authority shall consist of four~~

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1 ~~county commissioners appointed by the board of county~~
2 ~~commissioners and three city councilors or two city councilors~~
3 ~~and the mayor appointed by the municipality. Alternates to the~~
4 ~~extraterritorial land use authority shall be appointed by the~~
5 ~~board of county commissioners from among the remaining county~~
6 ~~commissioners and by the municipality from among the remaining~~
7 ~~city councilors. The alternates shall be notified prior to a~~
8 ~~meeting of the extraterritorial land use authority if an~~
9 ~~appointed member cannot attend. When replacing a member, an~~
10 ~~alternate shall have the same duties, privileges and powers as~~
11 ~~other appointed members] according to the last federal~~
12 ~~decennial census, there shall be no extraterritorial zoning; or~~

13 (2) three hundred thousand or fewer people,
14 concurrent extraterritorial zoning jurisdiction between that
15 municipality and the county may be determined by an
16 "extraterritorial land use authority" pursuant to ordinances
17 adopted by the municipal and county governing bodies stating
18 that the county or municipality will create an extraterritorial
19 land use authority [with the composition, jurisdiction and
20 powers set forth in Paragraph (1) of this subsection]. The
21 extraterritorial land use authority shall have the jurisdiction
22 and powers of an extraterritorial zoning authority and shall
23 carry out its duties related to planning and platting
24 jurisdiction, extraterritorial zoning, subdivision approval and
25 annexation approval or disapproval as provided in the Municipal

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1 Code. The extraterritorial land use authority shall consist of
2 four county commissioners appointed by the board of county
3 commissioners and three city councilors or two city councilors
4 and the mayor appointed by the municipality. Alternates to the
5 extraterritorial land use authority shall be appointed by the
6 board of county commissioners from among the remaining county
7 commissioners and by the municipality from among the remaining
8 city councilors. The alternates shall be notified prior to a
9 meeting of the extraterritorial land use authority if an
10 appointed member cannot attend. When replacing a member, an
11 alternate shall have the same duties, privileges and powers as
12 other appointed members.

13 B. The extraterritorial zoning commission in a
14 class A county shall be known as the "extraterritorial land use
15 commission" if it is formed by

16 [~~(1) a class A county and a municipality that~~
17 ~~has a population of more than three hundred thousand people and~~
18 ~~that is located within that class A county; or~~

19 (2)] a municipality and a class A county that
20 have adopted ordinances pursuant to Paragraph (2) of Subsection
21 A of this section stating that the county and municipality will
22 create an extraterritorial land use authority.

23 C. The extraterritorial zoning commission shall be
24 composed of five members of the county planning commission
25 appointed by the board of county commissioners and five members

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1 of the environmental planning commission of the municipality
2 appointed by the city council. Alternates to the
3 extraterritorial land use commission shall be appointed by the
4 board of county commissioners from the remaining members of the
5 county planning commission and by the municipality from the
6 remaining members of the environmental planning commission, who
7 shall be notified prior to a meeting of the extraterritorial
8 land use commission if an appointed member cannot attend. When
9 replacing a member, the alternate shall have the same duties,
10 privileges and powers as other appointed members.

11 D. The composition of the extraterritorial land use
12 commission shall not affect the composition of any other
13 extraterritorial zoning commission that may be established in
14 that county with any other municipality.

15 E. The extraterritorial land use commission shall
16 have the authority to carry out duties related to planning
17 and platting jurisdiction, subdivision and extraterritorial
18 zoning. "

19 Section 3. EFFECTIVE DATE. --The effective date of the
20 provisions of this act is July 1, 2003.